

CUSTOMER NO. 46850

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Attorney Docket No. Greywall 34

In re application of: Dennis S. Greywall

| | | | |
|-------------|------------|-----------------|--------------------|
| Serial No.: | 10/789,074 | Group Art Unit: | 1791 |
| Filed: | 02/27/2004 | Examiner: | Lazorcik, Jason L. |
| Matter No.: | 990.0626 | Phone No.: | 571-272-2217 |

For: Carbon Particle Fiber Assembly Technique

AMENDED APPELLANT'S BRIEF (37 CFR 41.37)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to Notification of Non-Compliant Appeal Brief of 03/31/08,
Appellant/Applicant submits amended Argument (37 CFR 41.37(c)(1)(vii)), which replaces and
supersedes the Argument contained in Appellant's Brief (37 CFR 41.37) filed on 03/20/08.

ARGUMENT (37 CFR 41.37(c)(1)(vii))

Rejections of claims 1, 3, 6, 8-10, 19-21, 26, 28, 40, 42, 45, and 47 under 35 U.S.C. § 102(b) over Roeder

The method defined in claim 1 has the step of “drawing glass … so as to form at least one carbon fiber from … carbon particles.” By contrast, the method disclosed by Roeder is based on embedding previously formed fiber bundles into a glass matrix. Therefore, it is submitted that the method disclosed by Roeder cannot serve as an example of the method defined in claim 1 at least because there is no formation of carbon fibers from carbon particles in the method of Roeder.

More specifically, the method disclosed by Roeder is directed to the production of a composite material that has improved mechanical characteristics compared to those of unreinforced glass. According to that method, a prefabricated (carbon or silicon-carbide) fiber bundle is impregnated with glass powder and placed into a hollow mandrel. The tip of the hollow mandrel has a cone-shaped taper with a hole connecting the mandrel to a glass-melt volume. The glass melt is extruded from the volume through a die channel. The glass-impregnated fiber bundle is drawn through the hole in the mandrel into the glass-melt volume and is pushed together with the glass melt through the die channel to form a glass rod or profile having a fiber-reinforced core. (See Roeder’s pages 11-13.)

The prefabricated fibers used in the method of Roeder are relatively long fibers spooled on cardboard rolls. At about 600°C, the sizing that covers the spooled fibers is stripped off and the individual filaments of each fiber are loosened from one another. The fibers thus treated are cut to a suitable length and a relatively large number of the resulting fiber pieces are bundled together to form, after the glass impregnation, the prefabricated fiber bundle, which is then placed into the hollow mandrel. (See Roeder’s pages 22-23.)

To impregnate a fiber bundle with glass powder, the fiber bundle is immersed, for approximately 45 seconds, into a suspension of boiling alcohol and glass powder. The boiling of the alcohol swirls and agitates the glass powder to uniformly distribute the glass powder in the liquid. When the fiber bundle is immersed into this boiling suspension, the glass powder infiltrates the fiber bundle. After the fiber bundle is removed from the boiling suspension and the alcohol is evaporated, the glass powder that has infiltrated the fiber bundle adheres to the individual fiber filaments, thereby forming the glass-impregnated fiber bundle. (See Roeder’s pages 15 and 23.)

Based on the above characterization of Roeder, the Appellant submits that the method of Roeder differs from the method of claim 1 in at least that, in the former method, glass is drawn to embed into it the **already existing, previously formed** carbon fiber obtained from an external source (e.g., a cardboard spool), whereas in the latter method, glass is drawn to **form** a carbon fiber **from carbon particles** contained in the glass, with the carbon fiber being newly formed as the glass is being drawn.

On pages 11-12 of the final office action the Examiner asserts that Roeder's step of compacting the previously loosened filaments of prefabricated fibers in the process of drawing them through the cone-shaped taper of the hollow mandrel is an example of the step of "drawing glass containing said carbon particles so as to form at least one carbon fiber from said carbon particles" recited in claim 1. For the following reasons, the Appellant respectfully disagrees.

First, the Appellant submits that no fiber is being formed from carbon particles in the method of Roeder because, even after the filaments have been loosened, the previously formed carbon fiber does **not** cease to exist. Although the filaments of a fiber bundle are loosened from each other, neither the individual filaments nor the fibers in the bundle are reverted back to mere particles. Instead, they remain fibers. The fact that the degree of fiber disintegration due to the filament loosening is very slight is made very clear, for example, by the following passages in Roeder. The fibers composed of loosened filaments can still be cut to a suitable length and combined into bundles (see Roeder's page 23). The glass powder used in the impregnation process has a very fine grain size (less than about 40 μm) and, yet, there is substantially no loss of this glass powder from the impregnated fiber bundle as it is being moved into the hollow mandrel (see Roeder's pages 23-24). If the degree of fiber disintegration were not slight, then it would not be possible to keep the fine glass powder sufficiently entrapped between the filaments to enable the powder to survive, without being shaken off, the process of mechanically moving the glass-impregnated fiber bundles into the hollow mandrel.

Because the degree of fiber disintegration is very slight and the loosened filaments remain fibers, there is **no formation of carbon fibers from carbon particles** in the method of Roeder. This conclusion is reinforced by the fact that Roeder himself describes his method as one in which the fiber is "precompacted," "radially compressed" (page 12), and subjected to "compacting and shaping" (page 15), but never as one in which the fiber is created or formed from carbon particles. In contrast, claim 1 requires that at least one carbon fiber be **formed from carbon particles**.

Second, even if the “formation” of carbon fiber was present in the method of Roeder, which the Appellant does not admit, the carbon fiber would have been formed from carbon filaments, and not from carbon particles as required by claim 1. Although, on page 12 of the final office action, the Examiner contends that “carbon filaments” represent an example of “carbon particles,” the Appellant respectfully disagrees and submits that such an interpretation of these terms is improper. The reasons for this disagreement are outlined below.

At page 903, Merriam-Webster’s Collegiate Dictionary defines a particle as “a minute quantity or fragment” or “a relatively small or the smallest discrete portion or amount of something” (see the Eleventh Edition, Merriam-Webster, Inc., Springfield, Massachusetts, 2003). At page 467, the Dictionary further defines a filament as “a single thread or a thin flexible threadlike object, process, or appendage.” At page 464, the Dictionary further defines a fiber as “a thread or a structure or object resembling a thread: ... a slender and greatly elongated natural or synthetic filament (as of wool, cotton, asbestos, gold, glass, or rayon) typically capable of being spun into yarn.” Based on these definitions, it is submitted that there is a significant difference between a “particle” and a “filament.” One representative line of distinction between a “particle” and a “filament” can be drawn based on size. For example, it is clear that Roeder’s carbon filaments are relatively large objects that can be mechanically grabbed and piled into bundles. It is submitted that this fact provides a first piece of compelling evidence that Roeder’s filaments may not be appropriately construed as minute quantities or fragments. In contrast, Appellant’s specification makes it clear that “carbon particles” are relatively small objects that, for example, can be dispersed in a glass body to form a sol-gel solution (see page 4, lines 8-19). Clearly, Roeder’s filaments are too large to form a sol-gel solution and, as such, cannot serve as an example of carbon particles recited in claim 1. This fact provides a second piece of compelling evidence that Roeder’s filaments may not be appropriately construed as minute quantities or fragments.

For at least these reasons, the Appellant submits that the Examiner misinterpreted the teachings of Roeder and used them improperly to reject claim 1. It is therefore submitted that claim 1 is allowable over Roeder and its rejection over Roeder should be withdrawn. For similar reasons, it is submitted that claims 26 and 40 are allowable over Roeder. Since claims 3, 6, 8-10, 19-21, 28, 42, 45, and 47 depend variously from claims 1, 26, and 40, it is further submitted that those claims are allowable over Roeder and the cited reference combinations that include Roeder. The Appellant

submits therefore that the rejections of claims 1, 3, 6, 8-10, 19-21, 26, 28, 40, 42, 45, and 47 under § 102 have been overcome.

Claim 45 recites the step of dispersing carbon particles within a form of liquid glass to form a sol-gel solution. Claim 45 further recites the step of solidifying the sol-gel solution to form a glass body containing therein said carbon particles. In the method of Roeder, glass particles, not carbon particles, are being dispersed in alcohol and then two solids are aggregated to form a composite material. It is submitted that the method disclosed by Roeder cannot serve as an example of the method defined in claim 45 at least because (1) Roeder's fibers in the fiber bundle remain structurally intact and are not being dispersed in any manner at all and (2) there is no sol-gel-solution solidification in the method disclosed by Roeder. Differences between the method defined in claim 45 and the method disclosed by Roeder are further detailed below.

In the rejection of claim 45, on page 5 of the final office action, in reference to Roeder, the Examiner stated that:

This sol-gel impregnation process is implicitly understood to encompass Applicants claimed step of dispersing the carbon particles in a sol-gel solution (claim 42, 45) and “solidifying” at least a portion of the sol-gel solution to “form a glass body containing therein said carbon particles.”

In response, the Appellant submits that this characterization of Roeder is unfounded and improper.

The term “dispersing” means distributing more or less evenly throughout a medium (see, for example, Merriam-Webster's Collegiate Dictionary, Eleventh Edition, Merriam-Webster, Inc., Springfield, Massachusetts, 2003, p. 361). In the method of Roeder, glass particles, not carbon particles, are being dispersed in alcohol, whereas the fibers of the fiber bundle remain structurally intact and are not being dispersed in any manner at all (see, e.g., Roeder's page 15, the first full paragraph).

Solidifying a substance means making that substance solid or hard (see, for example, Merriam-Webster's Collegiate Dictionary, Eleventh Edition, Merriam-Webster, Inc., Springfield, Massachusetts, 2003, p. 1187). In the method of Roeder, the already solid glass particles of the glass/alcohol suspension adhere to the already solid fiber bundle (see, e.g., Roeder's page 15, the first full paragraph). Thus, in the method of Roeder, one solid is simply aggregated with another solid. When the two aggregated solids are heated up and drawn through the hole in the mandrel there is no sol-gel solution at that point at least because the solvent has already been removed.

Although it is true that the heat melts the solid glass particles in the bundle, this melting does not create a sol-gel solution that can be subsequently solidified to form a glass body to be drawn as required by claim 45.

All these facts provide additional reasons for the allowability of claim 45 over the cited references. At least some of these reasons similarly apply to the allowability of claims 42 and 47 over the cited references.

With respect to claim 10, the Appellant specifically notes that the Examiner's rejection of that claim is improper and should be withdrawn. In particular, claim 10 and its base claims recite the steps of (a) solidifying a mixture of carbon particles within a sol-gel solution whereby a body is formed and (b) dispersing carbon particles within said sol-gel solution to form said mixture. For at least some of the reasons already explained above in reference to claim 45, the Applicant submits that Roeder does not teach or even suggest such steps. It therefore follows that the Examiner misinterpreted the teachings of Roeder and used them improperly to reject claim 10.

Rejections of claims 12-18, 43, 46, and 48 under 35 U.S.C. § 102(b) over Roeder or, in the alternative, under 35 U.S.C. 103(a) over Roeder

Claims 12-18 and 46 depend variously from claims 1 and 45. Claim 43 depends from claims 40 and 42. Claim 48 depends from claims 26 and 47.

The Appellant submits that the rejections of claims 12-18 and 46 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 1 and 45 and because the improper rejections of claims 1 and 45 render the rejections of claims 12-18 and 46 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 43 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 40 and 42 and because the improper rejections of claims 40 and 42 render the rejection of claim 43 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 48 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 26 and 47 and because the improper rejections of claims 26 and 47 render the rejection of claim 48 substantively incomplete and improper.

Rejections of claims 4, 5, 7, 44, and 49 under 35 U.S.C. 103(a) over Roeder in view of Hearle

Claims 4-5 and 7 depend variously from claim 1. Claim 7 further depends from claim 45. Claim 44 depends from claims 40 and 42. Claim 49 depends from claims 26 and 47.

The Appellant submits that the rejections of claims 4-5 should be withdrawn at least for the reasons explained above in reference to the rejection of claim 1 and because (i) Hearle does not remedy the above-indicated deficiencies of Roeder with respect to claim 1 and (ii) the improper rejection of claim 1 renders the rejections of claims 4-5 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 7 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 1 and 45 and because (i) Hearle does not remedy the above-indicated deficiencies of Roeder with respect to claims 1 and 45 and (ii) the improper rejections of claims 1 and 45 render the rejection of claim 7 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 44 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 40 and 42 and because (i) Hearle does not remedy the above-indicated deficiencies of Roeder with respect to claims 40 and 42 and (ii) the improper rejections of claims 40 and 42 render the rejection of claim 44 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 49 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 26 and 47 and because (i) Hearle does not remedy the above-indicated deficiencies of Roeder with respect to claims 26 and 47 and (ii) the improper rejections of claims 26 and 47 render the rejection of claim 49 substantively incomplete and improper.

Rejection of claim 22 under 35 U.S.C. 103(a) over Roeder

Claim 22 depends from claim 1.

The Appellant submits that the rejection of claim 22 should be withdrawn at least for the reasons explained above in reference to the rejection of claim 1 and because the improper rejection of claim 1 renders the rejection of claim 22 substantively incomplete and improper.

Rejection of claim 11 under 35 U.S.C. § 103(a) over Roeder in view of Chandross

Claim 11 depends from claims 1 and 45.

The Appellant submits that the rejection of claim 1 should be withdrawn at least for the reasons explained above in reference to the rejections of claims 1 and 45 and because (i) Chandross does not remedy the above-indicated deficiencies of Roeder with respect to claims 1 and 45 and (ii) the improper rejections of claims 1 and 45 render the rejection of claim 11 substantively incomplete and improper.

Rejections of claims 2, 27, and 41 under 35 U.S.C. § 103(a) over Roeder in view of Kumar

Claims 2, 27, and 41 depend from claims 1, 26, and 40, respectively.

The Appellant submits that the rejection of claim 2 should be withdrawn at least for the reasons explained above in reference to the rejection of claim 1 and because (i) Kumar does not remedy the above-indicated deficiencies of Roeder with respect to claim 1 and (ii) the improper rejection of claim 1 renders the rejection of claim 2 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 27 should be withdrawn at least for the reasons explained above in reference to the rejection of claim 26 and because (i) Kumar does not remedy the above-indicated deficiencies of Roeder with respect to claim 26 and (ii) the improper rejection of claim 26 renders the rejection of claim 27 substantively incomplete and improper.

The Appellant further submits that the rejection of claim 41 should be withdrawn at least for the reasons explained above in reference to the rejection of claim 40 and because (i) Kumar does not remedy the above-indicated deficiencies of Roeder with respect to claim 40 and (ii) the improper rejection of claim 40 renders the rejection of claim 41 substantively incomplete and improper.

Respectfully submitted,

Date: 04/18/2008
Customer No. 46850
Mendelsohn & Associates, P.C.
1500 John F. Kennedy Blvd., Suite 405
Philadelphia, Pennsylvania 19102

/Yuri Gruzdkov/
Yuri Gruzdkov
Registration No. 50,762
Attorney for Applicant
(215) 557-8544 (phone)
(215) 557-8477 (fax)